

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

DONNA CORBELLO,

Plaintiff,

vs.

THOMAS GAETANO DEVITO et al.,

Defendants.

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2:08-cv-00867-RCJ-PAL

**ORDER**

This case arises out of alleged copyright infringement. Plaintiff Donna Corbello is the widow of an attorney who assisted Defendant Thomas Gaetano “Tommy” DeVito in writing his autobiography (“the Work”). Plaintiff alleges that DeVito and others wrongfully appropriated the Work to write the screenplay for *Jersey Boys*, a hit Broadway musical based on the band *The Four Seasons* that has played in the United States, England, and Australia, grossing many millions of dollars. Corbello has sued several companies and individuals, including several members of the band *The Four Seasons*, for copyright infringement.

Pretrial practice in this case, particularly discovery practice, has been acrimonious. The Magistrate Judge on April 15, 2011 issued thirteen orders, mostly concerning motions to compel and ancillary motions related to motions to compel. Plaintiff has now filed an objection to those orders, which in reality is a motion to clarify properly directed to the Magistrate Judge. The following excerpt from the motion makes it appear that Plaintiff’s grievance is not with the

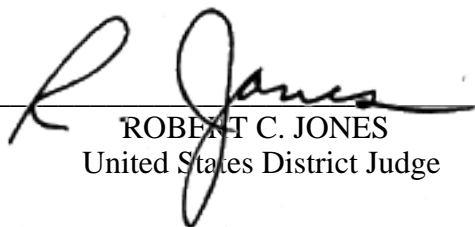
1 Magistrate Judge's orders, but with Defendants' alleged failure to comply with them. "The  
2 Magistrate Judge's order . . . is clearly erroneous in certain respects and should be modified. . . .  
3 [Defendant] is taking advantage of loose and imprecise language in the Magistrate Judge's order  
4 to avoid producing obviously relevant and important documents." (Mot., 5:15-20, May 5, 2011,  
5 ECF No. 520). This is not a complaint that the Magistrate Judge erred, and it is therefore not a  
6 Rule 72(a) motion, regardless of how Plaintiff attempts to characterize it. It is a complaint that  
7 Defendants are failing to comply with the Magistrate Judge's orders. Plaintiff must direct this  
8 grievance to the Magistrate Judge. Only if the Magistrate Judge clarifies her orders in a way that  
9 is unsatisfactory to Plaintiff—and in a way that the Court can identify the precise ruling—will a  
10 Rule 72(a) motion be appropriate, because only then will the Court have a clear ruling from the  
11 Magistrate Judge to examine.

### 12 CONCLUSION

13 IT IS HEREBY ORDERED that the Emergency Objection to Magistrate Judge's April  
14 15, 2011 Orders (ECF No. 520) is REFERRED to the Magistrate Judge as a motion to clarify.

15 IT IS SO ORDERED.

16 DATED this 20th day of May, 2011.

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19 ROBERT C. JONES  
20 United States District Judge  
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